

Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

August 15, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 6, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We spoke on Friday 8-3-01 regarding the exemption some of our customers are declaring when they purchase new fire extinguisher. Usually a generic computer generated form is supplied to our office from the buyer, the form indicates that the purchase of the new fire extinguisher is exempt II state sales tax because of an exemption allowed for manufacturing, or machinery.

What I am needing is a clarification from your office as to why this exemption is now allowed on fire extinguishers. Please fax me a letter indicating why this sale should be taxable. If you should have any questions, please call me.

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption does not apply to machinery or equipment used to prevent or fight fires or protect employees such as protective face masks, helmets, gloves, coveralls, and goggles or for safety accident protection or first aid even though such machinery or equipment may be required by law. See part (4)(G) of subsection (d) of Section 130.330. As noted in the rules, items such as fire extinguishers used to fight fires specifically do not qualify for the Manufacturing Machinery and Equipment Exemption.

However, in addition to the exemption for manufacturing machinery and equipment, the State provides a manufacturer's purchase credit on the purchase of tangible personal property that qualifies for the manufacturing machinery and equipment exemption. See subsection (a) of the enclosed copy of 86 Ill. Adm. Code 130.331. Accumulated MPC may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. The credit may be applied only to the 6.25% State rate of tax. See subsection (b) of Section 130.331.

Production related tangible personal property means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer in research and development regardless of use within or without a manufacturing facility. See subsection (b) of Section 130.331.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

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Enc.